

Thoughts on Persuasive Writing

I expect all students to read these rules carefully, internalize them, and apply them consistently throughout the drafting process. They are intended not only to guide your writing for this course but also to establish habits that will serve you well in legal practice. The application of these principles will be an important factor in the evaluation of your written work.

Strong legal writing demands more than technical accuracy—it requires persuasiveness. The principles outlined below are designed to help you craft arguments that resonate with demanding readers: judges with crowded dockets, law clerks screening countless briefs, and senior attorneys making quick assessments of your work product.

In legal practice, identifying the correct legal conclusion is typically only 60% of your task. The remaining 40%—often the difference between success and failure—lies in convincing skeptical decision-makers that your analysis is correct. This requires mastering the art of persuasive legal writing.

Legal professionals face relentless time pressure. They read quickly, skeptically, and with little patience for disorganized or verbose submissions. They expect writing that presents arguments efficiently, supports positions with appropriate authority, and illustrates complex points with well-chosen case examples. The following rules will help you meet these expectations and develop habits that will serve you throughout your legal career.

1. The writing states a precise question *and* answers the question presented. You would be surprised how often this is not the case.
2. Write from the reader's perspective. What matters is not what the writer intends to say, but what the reader actually understands. Consider your audience's knowledge, priorities, and time constraints at every stage of drafting.
3. The writing is well-organized with a clear, logically progressing narrative. Ask, if you were the reader, how you would want the writing to be organized. A good way to check the organization of your paper is to write out just the first-level headings and see if they tell a story without any additional text or explanation. Then see if the second-level headings fit together in the context of the first-level heading, and so on.
4. The writing should be linear: each sentence should logically progress from the preceding sentence, each paragraph from the preceding paragraph, each section from the preceding section, and so on. For each sentence, paragraph, and section, ask, if you were the reader, what you would expect to come next? When you do not address what the reader expects, the reader will be confused. You will not be persuasive if the reader is confused.
5. Each paragraph should have a clear topic sentence. Long paragraphs may also need a concluding sentence or at least a sentence that allows a smooth transition to the next paragraph. Sections always need an opening paragraph that explains what the section will address. If the section has subsections, the opening paragraph needs to preview the subsections. Most sections of any length will typically need a concluding paragraph. Give the reader signals where you are in the analysis and where you are going so that the reader does not become lost or confused.
6. The analysis needs to be rigorous and precise without becoming tedious or overwrought. Legal propositions must be supported by legal authority, usually a case law precedent or a statute. If no case is directly on point, construct a supporting argument in which each legal proposition is grounded in authority.
7. Begin your legal argument with a clear articulation of the governing legal standard. Once that standard is established, apply it methodically to the relevant facts. Divide the analysis into

discrete, logically sequenced propositions, and support each with appropriate authority. Make explicit the logical connections between each step in your reasoning. Do not assume the reader will infer your argument from the authorities you cite; explain how each authority supports the specific proposition for which it is cited. Anticipate potential counterarguments and, where appropriate, acknowledge and respond to them. A persuasive argument is not simply a conclusion followed by citations. It is a transparent and reasoned progression from legal principle to application to conclusion.

8. Framing the facts clearly and persuasively, without exaggeration, helps ground your legal conclusions in the reader's intuitive sense of fairness and logic. The way you present the factual context can often determine how receptive the reader will be to your legal analysis.
9. Vague qualifiers like 'generally,' 'typically,' or 'often' create reader uncertainty. These terms raise an implicit question: *When does this proposition hold, and when does it not?* If you do not answer that question, the reader is likely to become confused and question the logic or your argument, with the result the credibility of your analysis will suffer. Be exact about the scope and limits of your assertions. If a proposition holds without exception, state it directly without qualifiers. When exceptions exist but are not relevant to your analysis, drop the qualifier and rewrite the sentence to specify the precise conditions under which the proposition applies. Precision builds confidence in your legal analysis.
10. Write in active voice, simplify your sentences, and eliminate unnecessary words. Concise writing increases readability, maintains the reader's attention, and strengthens your persuasive impact.
11. Be grammatically hypervigilant. Grammatical errors distract readers and can signal an inadequately trained writer. When in doubt, check with a style manual. The Internet is an excellent resource for answering even obscure grammar questions.
12. Similarly, your tone matters—persuasive writing should be forceful and confident, but never strident or overblown. Avoid colloquialisms and informal expressions, which diminish the professionalism and credibility of your writing.
13. Editing is not optional—it is a vital part of the writing process. Leave time to revise with fresh eyes. Reading aloud, reviewing a hard copy, or revisiting a draft after a day's break can help you spot unclear passages, excess words, or disjointed structure.
14. Ensure that your citations to authority follow proper Bluebook form. While some readers may not notice citation format, many influential legal readers—including judges and senior attorneys—consider proper citation a non-negotiable marker of professional competence. For these readers, citation errors can undermine your entire argument regardless of its substantive merit. It is easy to learn the basic Bluebook forms. It is a very worthwhile investment.

Finally, I encourage you to find and study briefs, opinions, and law review articles you find well-written and persuasive. Analyze specifically what elements make these writings effective and compelling to readers. When I was in practice, I often suggested to my associates that they subscribe to [Bryan Garner's LawProse blog](#), [Garner's Usage Tip of the Day](#), the [\(New\) Legal Writer](#), and one or more grammar blogs. These quick reads consistently provide valuable insights that benefit even experienced legal writers.

Developing as a writer is a continuous learning process. The more you practice and thoughtfully evaluate how your writing resonates with readers, the more your writing will improve over time. The best legal writers never stop honing their craft and always remain open to improvement.